

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

U.S. BANK TRUST, as trustee for LSF9
MASTER PARTICIPATION TRUST,

Plaintiff,

v.

IVAILO MARKOV, *et al.*,

Defendants.

CASE NO. C17-1786-JCC

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable John C. Coughenour, United States District Judge:

This matter comes before the Court *sua sponte*. Defendant filed a notice of removal from Snohomish County Superior Court (Dkt. No. 3). Defendant alleged this Court has jurisdiction because “Defendant’s demurrer a pleading depending on the determination of Defendant’s rights and Plaintiff’s duties under federal law” and, as a result, “[f]ederal question jurisdiction exists.” (*Id.* at 2.) However, it is well established that “federal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” *California v. United States*, 215 F.3d 1005, 1014 (9th Cir. 2000). A defendant cannot create subject matter jurisdiction through the assertion of a defense or counterclaim where jurisdiction would otherwise be lacking. *See Caterpillar, Inc., v. Williams*, 482 U.S. 386, 392 (1987) (defense);

1 *Holmes Group, Inc., v. Vornado Air Circulation Systems, Inc.*, 535 U.S. 826, 832 (2002)
2 (counterclaim). Based on the record before the Court, it does not appear that the Court would
3 have federal question jurisdiction over this case.

4 Within fourteen (14) days of the issuance of this order, Defendant is ORDERED to show
5 cause why this case should not be remanded to Snohomish County Superior Court for lack of
6 subject matter jurisdiction. Defendant shall file a response with the Court, not to exceed five (5)
7 pages, that lists the facts and law that demonstrate that this Court has federal question
8 jurisdiction over this matter. The Clerk is DIRECTED to mail a copy of this order to Defendant.

9 DATED this 12th day of June 2018.

10 William M. McCool
11 Clerk of Court

12 s/Tomas Hernandez
13 Deputy Clerk
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